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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/649,713	08/25/2000	Harry T. French	FRENCH 6-2	7110

47396 7590 07/14/2006

HITT GAINES, PC  
AGERE SYSTEMS INC.  
PO BOX 832570  
RICHARDSON, TX 75083

EXAMINER
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HAN, CLEMENCE S

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/649,713

Applicant(s)

FRENCH ET AL.

Examiner

Clemence Han

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 19-23, 25-30 and 32-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 33-50 is/are allowed.
- 6) ☒ Claim(s) 19-23, 25-30 and 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 19-23, 25-30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bhagavath et al. (US 5,940,369) in view of Leijonhufvud (US 6,532,243).

Regarding to claim 19 and 26, Bhagavath teaches for use with a packet transport system associated with a switching network and having a master device and a slave device that transmits packets therebetween over a local interface, a messaging system for facilitating communications between said master device and said slave device, comprising: an aggregate level detector that determines storage levels of a plurality of channels associated with said slave device (Column 3 Line 3-7), said slave device 111 providing a network interface to said switching network 115 for said master device 101 (Subscriber Premises in Figure 1); and a periodic message generator that periodically issues to said master device over said local interface ("IA-HDT transmission link" in Column 1 Line 56-57) a periodic

message indicating said storage levels (Column 2 Line 48-53). Bhagavath, however, does not teach enabling said master device to determine a variation between a first clock associated with said slave device and a second clock associated with said master device. Leijonhufvud teaches enabling said master device to determine a variation between a first clock associated with said slave device and a second clock associated with said master device (Column 2 Line 52-56). It would have been obvious to one skilled in the art to modify Bhagavath to enable said master device to determine a variation between a first clock associated with said slave device and a second clock associated with said master device as taught by Leijonhufvud in order to achieve a synchronization between two devices (Column 1 Line 12-17).

Regarding to claim 20 and 27, Bhagavath teaches said periodic message is transmitted in band with packets transmitted from said slave device to said master device (Column 4 Line 29-33).

Regarding to claim 21 and 28, Bhagavath teaches packets transmitted to said master device 101 are packets received by said slave device 111 over said switching network 115 (Column 4 Line 1).

Regarding to claim 22 and 29, Bhagavath teaches said switching network 115 is an asynchronous transfer mode (ATM) network.

Regarding to claim 23 and 30, Bhagavath teaches said periodic message is contained in a single packet (Column 4 Line 24).

Regarding to claim 25 and 32, Bhagavath teaches said master device transmits additional packets to said slave device based on said periodic message (Column 3 Line 25-29).

***Allowable Subject Matter***

3. Claim 33-50 are allowed.
4. The following is a statement of reasons for the indication of allowable subject matter: The prior arts in the record fail to teach or make obvious to a method comprising both channel level detector and aggregate level detector where the master device control the transmission based on at least one of the feedbacks from both detectors within a structure of the claim. These features are claimed in the independent claims 33 and 41 and render them allowable.

***Response to Arguments***

5. Applicant's arguments with respect to claim 19-23, 25-30 and 32-50 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clemence Han whose telephone number is

(571) 272-3158. The examiner can normally be reached on Monday-Thursday 7 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

C.H

Clemence Han  
Examiner  
Art Unit 2616

  
STEVEN NGUYEN  
PRIMARY EXAMINER